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# County Correctional Facility Capital Expenditure Bond Act Of 1986

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## Official Title and Summary Prepared by the Attorney General

COUNTY CORRECTIONAL FACILITY CAPITAL EXPENDITURE BOND ACT OF 1986. This act provides for the construction, reconstruction, remodeling, and replacement of county correctional facilities and the performance of deferred maintenance thereon pursuant to a bond issue of four hundred ninety-five million dollars (\$495,000,000).

## Final Vote Cast by the Legislature on SB 146 (Proposition 52)

Assembly: Ayes 68  
Noes 2

Senate: Ayes 36  
Noes 2

## Analysis by the Legislative Analyst

**Background**

California's 58 counties have detention facilities that they use to house adults and juveniles who are serving time for committing a crime or awaiting court decisions.

More than 35 counties currently have more persons in their jails and juvenile facilities than the facilities were designed to house. The capacity of facilities maintained by several other counties probably is exceeded during peak times such as Friday and Saturday nights. In 13 counties, the courts have set limits on the number of persons that may be confined in jails at any one time.

Because of the crowded conditions in detention facilities, counties are attempting to hold down or reduce the number of persons housed in these facilities.

The voters have authorized the state to sell \$530 million in general obligation bonds to raise money for county jail improvements. (General obligation bonds are backed fully by the state, meaning that the state will use its taxing power to assure that enough money is available to pay off the bonds.) The Board of Corrections estimates that these funds will be fully committed by 1988. The board estimates that by 1989, counties will have spent a total of about \$850 million (including the money provided by the state bond measures) to provide new space for 11,000 more persons in jails.

The Board of Corrections estimates that after the new space is provided, counties will need to spend an additional \$1 billion in order to house about 13,800 more persons in jails by 1991.

**Proposal**

This measure would authorize the state to sell \$495 million in general obligation bonds to raise money for county detention facilities. This money could be used to pay for the construction, reconstruction, remodeling, and replacement of county jail and juvenile facilities (including separate facilities for the care of mentally ill inmates and persons arrested because of intoxication), and for deferred

maintenance. The measure limits the amount of money that could be used for county juvenile facility projects to \$20 million.

In order for a county to receive bond funds, it would have to:

1. Provide matching funds of 25 percent of the project's costs (this requirement could be modified or waived by the Legislature),

2. Adopt a plan to prohibit the detention of juveniles in jails unless the county is permitted by law to keep them there,

3. Show that it has adequate facilities for mental inmates and persons arrested because of inebriation, or that it has a plan to provide services to these persons, and

4. Show that it has made the greatest practicable use of alternatives to keeping persons in jail, such as work release, own recognizance release, or weekend work programs.

The amount of money a county would be eligible to receive would be determined by the Legislature at a future time.

**Fiscal Effect**

**Paying Off the Bonds.** The state would make principal and interest payments over a period of up to 20 years from the state's General Fund. The average payment would be about \$44.2 million each year, if the bonds were sold at an interest rate of 7.5 percent.

**Borrowing Costs for Other Bonds.** By increasing the amount which the state borrows, this measure may cause the state and local governments to pay more under other bond programs. These costs cannot be estimated.

**Lower State Revenues.** The people who buy these bonds are not required to pay state income tax on the interest they earn. Therefore, if California taxpayers buy these bonds instead of making other taxable investments, the state would collect less taxes. This loss of revenue cannot be estimated.

## Text of Proposed Law

This law proposed by Senate Bill 146 (Statutes of 1986, Ch. 12) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law expressly adds sections to the Penal Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

SECTION 1. Title 4.7 (commencing with Section 4475) is added to Part 3 of the Penal Code, to read:

#### TITLE 4.7. COUNTY CORRECTIONAL FACILITY CAPITAL EXPENDITURE BOND ACT OF 1986

##### CHAPTER 1. FINDINGS AND DECLARATIONS

4475. This title shall be known and may be cited as the County Correctional Facility Capital Expenditure Bond Act of 1986.

4476. It is found and declared that:

(a) While the County Jail Capital Expenditure Bond Act of 1981 and the County Jail Capital Expenditure Bond Act of 1984 have helped eliminate many of the critically overcrowded conditions found in the 164 county jail facilities in the state, many problems remain.

(b) Numerous county jails and juvenile facilities throughout California are dilapidated and overcrowded.

(c) Capital improvements are necessary to protect life and safety of the persons confined or employed in jail facilities and to upgrade the health and sanitary conditions of those facilities.

(d) County jails are threatened with closure or the imposition of court supervision if health and safety deficiencies are not corrected immediately.

(e) Due to fiscal constraints associated with the loss of local property tax revenues, counties are unable to finance the construction of adequate jail and juvenile facilities.

(f) Local facilities for adults and juveniles are operating over capacity and the population of these facilities is still increasing. It is essential to the public safety that construction of new facilities proceed as expeditiously as possible to relieve overcrowding and to maintain public safety and security.

##### CHAPTER 2. FISCAL PROVISIONS

4480. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued pursuant to this title, and the provisions of that law are included in this title as though set out in full in this chapter except that, notwithstanding anything in the State General Obligation Bond Law, the maximum maturity of the bonds shall not exceed 20 years from the date of each respective series. The maturity of each respective series shall be calculated from the date of these series.

4481. As used in this title, and for the purpose of this title, the following words shall have the following meanings:

(a) "Committee" means the 1986 County Correctional Facility Capital Expenditure Finance Committee created in Section 4483.

(b) "Fund" means the 1986 County Correctional Facility Expenditure Fund.

(c) "County juvenile facilities" means county juvenile halls, juvenile homes, ranches, or camps, and other juvenile detention facilities.

4482. There is in the State Treasury the 1986 County Correctional Facility Capital Expenditure Fund, which fund is hereby created.

4483. For the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this title, the 1986 County Correctional Facility Capital Expenditure Finance Committee is hereby created. The committee consists of the Governor or his or her designated representative, the Controller, the Treasurer, and the Director of Finance. The County Correctional Facility Capital Expenditure Committee shall be the "committee" as that term is used in the State General Obligation Bond Law, and the Treasurer shall serve as chairman of the Committee. The Board of Corrections is hereby designated as "the board" for purposes of this title and for the purposes of the State General Obligation Bond Law.

4484. The committee is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of four hundred ninety-five million dollars (\$495,000,000), in the manner provided in this title. That debt or debts, liability or liabilities, shall be created for the purpose of providing the funds to be used for the object and work specified in Section 4485 and for administrative costs incurred in connection therewith.

4485. Moneys in the fund may be available for the construction, reconstruction, remodeling, and replacement of county jail facilities, including, but not limited to, separate facilities for care of mentally ill inmates and persons arrested because of intoxication, and the performance of deferred maintenance on county jail facilities except that up to twenty million dollars (\$20,000,000) of the money in the fund shall be available for the construction, reconstruction, remodeling, and replacement of county juvenile facilities, and the performance of deferred maintenance on county juvenile facilities. However, deferred maintenance for jails and juvenile facilities shall only include items with a useful life of at least 10 years.

Expenditure shall be made only if county matching funds of 25 percent are provided as determined by the Legislature, except that this requirement may be modified or waived by the Legislature where it determines that it is necessary to facilitate the expeditious and equitable construction of state and local correctional facilities.

4485.5. During the design and planning stage for county jail facilities whose construction, reconstruction, or remodeling is financed by the fund, consideration shall be given to proper design to allow for areas where persons arrested for misdemeanors who are attempting to obtain release on bail can be safely accommodated without the necessity of unclothed body searches.

4485.6. In order to be eligible to receive funds derived from the issuance of General Obligation Bonds under this title, a county shall do all of the following:

(a) Adopt a plan to prohibit the detention of all juveniles in county jails unless otherwise authorized by law.

Continued on page 46

## Argument in Favor of Proposition 52

Most Californians believe that those who commit serious crimes should go to jail. The Legislature and the trial courts have responded by making it tougher on criminals. Mandatory jail time is now required for many serious crimes. Jail sentences have been lengthened for many others. However, California's criminal justice system is only as strong as its weakest link, and the county jails are the weakest link. Unless new jails are built, our system will no longer be able to house the criminals that our courts convict.

The jails in 46 counties are seriously overcrowded. Some of them are currently housing over twice the number of prisoners they were designed to accommodate. Twenty-five counties are being sued because their jails are so overcrowded. Thirteen jails are operating under court-ordered population limits which have forced the release of some inmates into the community.

The typical county jail is over 30 years old. A third are over 40 years old. Most jails were built to hold less dangerous prisoners than are currently being sentenced. As state prisons have become overcrowded, county jail populations have come to include more serious and more violent offenders. Jails that were adequate to house minor offenders can no longer assure the safety of prisoners, jail staff or the community they serve. The chances of riots and es-

capas increase as jail conditions worsen. An overcrowded jail generally does not have space to permit the separation of people awaiting trial on minor charges from dangerous criminals.

Californians have approved bond measures before to assist with the construction of new jails. But California continues to grow and the need for new jail facilities continues to increase. A county will not get money from this measure just by asking for it. It will first have to prove that its jail facility is being operated efficiently and it will have to demonstrate a sufficient need to qualify for bond funds. Further, a county receiving money from this measure will have to put up 25% of the cost of the new facilities.

Passage of this measure is desperately needed if we are to continue to house criminals in county jails and separate them from law-abiding citizens.

We urge you to vote "yes" on Proposition 52.

**PAT NOLAN**  
*Assembly Republican Leader*  
*41st Assembly District*

**ROBERT PRESLEY**  
*State Senator, 36th District*  
*Author of Proposition 52*

**RICHARD ROBINSON**  
*Member of the Assembly, 72nd District*

## Rebuttal to Argument in Favor of Proposition 52

The proponents of this measure would have us believe that the county jails are overcrowded with criminals convicted of serious crimes. In fact, over half the population of the county jails are people awaiting trial, many of whom are innocent and will have their charges dropped.

The latest report from the State Board of Corrections mentions that overcrowding of jails is, to a large extent, due to unwillingness by the counties to use alternatives to incarceration. Some of the language in this proposition seems to indicate that the counties will be required to implement less expensive alternatives to incarceration, as well as to provide separate facilities for drunks and the mentally disordered. In fact, the Legislature deliberately amended this measure to prevent enforcement of those very provisions. As it stands now, this measure does *not* require counties to remove juveniles from adult facilities,

only to "plan" to remove them. It does *not* require counties to provide detoxification centers for drunks or community care facilities for the mentally disordered; only to "plan" for such services.

Those are pretty large loopholes and a lot of your tax dollars will flow through them. In some counties a single jail cell costs \$45,000; in other counties the price tag for a single cell rises to \$100,000.

There are too many people behind bars who don't belong there. Let's correct that situation before we spend another \$495 million on new jails.

Vote **NO** on Proposition 52.

**CLEVE JONES**  
*Legislative Advocate*  
*Friends Committee on Legislation*

**Join a class action: Vote!**

Thomas Starr Terrill, Anderson

### Argument Against Proposition 52

Once again, California taxpayers are being asked by the Legislature to spend more money on county jail facilities. In 1981 they asked for, and received, \$280 million. In 1984 they asked for, and received, \$250 million. Now they want another \$495 million.

Everyone agrees that California jails are overcrowded, but new jail construction is unable to keep up with demand and is, at best, only a temporary solution. The jails are overcrowded because many counties are not using alternatives to incarceration such as work-furlough projects, county parole and bail programs—all appropriate and less expensive alternatives to costly county jails.

10–15% of the offenders currently locked up in county jails are there for being drunk in public; another 10–15% are mentally disordered persons, many of whom are homeless. Some counties continue to lock up juveniles in adult facilities. For these people we need detoxification centers, community care facilities and youth programs, not more jail cells.

This situation creates an extraordinary financial burden for you, the taxpayer, who must pay not only for jail construction, but also for jail staffing, prisoner necessities such

as food and clothing and work programs, training and education. This burden exists not through lack of alternatives to the high cost of county jails, but through lack of leadership in state government.

The Legislature is eager to send criminals to jail for ever-longer terms to satisfy the public's fear of crime, but we question if they haven't gone too far, overloading the county jails with non-assaultive offenders who could be better dealt with in less costly ways with no compromise of the public's safety.

It's time for the Legislature to stop offering the public the deceptive "solution" of placing more and more people behind bars. Instead, we need thoughtful and innovative long-range planning, not more expensive stopgap measures.

If our approach to this issue doesn't change, California taxpayers will continue to shovel billions of dollars into an apparently bottomless pit of jail construction.

Vote no on Proposition 52.

CLEVE JONES  
*Legislative Advocate*  
*Friends Committee on Legislation*

### Rebuttal to Argument Against Proposition 52

The opponents are incorrect and have apparently chosen to ignore the simple facts which prove the need for this measure.

Californians have said that they want their state to be tough on crime. Our criminal justice system is handling more criminals than ever before. More serious criminals are being sent to jail than ever before. Jail sentences are longer than ever before. California continues to be a rapidly growing state and there are no signs that the demands on the criminal justice system will ease.

Our jails were filled to overcrowding in 1984 and Californians voted to approve a bond measure then which would provide funds to construct additional facilities. Again, the jails are seriously overcrowded and, again, additional funds are needed to build new ones. It's as simple as that.

The choices are equally simple. Either we build new jails to house the serious criminals that our courts convict or we release them back into the communities from which they came.

We urge you to vote "yes" on Proposition 52. This measure will cost each citizen of California less than \$2 per year.

It is necessary. We urge your support for it.

PAT NOLAN  
*Assembly Republican Leader*  
*41st Assembly District*

ROBERT PRESLEY  
*State Senator, 36th District*  
*Author of Proposition 52*

RICHARD ROBINSON  
*Member of the Assembly, 72nd District*

There's strength in YOUNity—Vote!  
Dorothy Hollingsworth, Anderson

## Proposition 52 Text of Proposed Law

*Continued from page 37*

(b) Demonstrate that it has adequate facilities for mentally ill inmates or detainees and for those persons arrested because of inebriation, or demonstrate that it has a plan for the provision of services to these persons.

(c) Demonstrate that it has utilized, to the greatest practicable extent, alternatives to jail incarceration such as sheriff's work release under Section 4024.2, own recognition release, and weekend work programs.

4485.7. Moneys in the fund may be available for construction of joint-use correctional facilities housing county and state or federal prisoners or any combination thereof in proportion to the county's benefit.

4486. (a) When sold, the bonds authorized by this title shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereon.

(b) There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the interest and principal on the bonds maturing each year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which shall be necessary to collect that additional sum.

(c) All money deposited in the fund which has been derived from premium and accrued interest on bonds sold shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

4487. All money deposited in the fund pursuant to any provision of law requiring repayments to the state for assistance financed by the proceeds of the bonds authorized by this title shall be available for transfer to the General Fund. When transferred to the General Fund, this money shall be applied as a reimbursement to the General Fund on account of principal and interest on the bonds which have been paid from the General Fund.

4488. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this title such an amount as will equal the following:

(a) That sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this title, as principal and interest become due and payable.

(b) That sum as is necessary to carry out the provisions of Section 4489, which sum is appropriated without regard to fiscal years.

4489. For the purpose of carrying out the provisions of this title, the Director of Finance may by executive order authorize the withdrawal from the General Fund of an

amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this title. Any amounts withdrawn shall be deposited in the fund and shall be disbursed by the board in accordance with this title. Any money made available under this section shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this title. These withdrawals from the General Fund shall be returned to the General Fund with interest at the rate which would have otherwise been earned by these sums in the Pooled Money Investment Fund.

4490. The committee may authorize the Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the Treasurer.

4491. All proceeds from the sale of bonds, except those derived from premiums and accrued interest, shall be available for the purpose provided in Section 4485 but shall not be available for transfer to the General Fund to pay principal and interest on bonds. The money in the fund may be expended only as herein provided.

4492. Notwithstanding Section 16305.7 of the Government Code, all interest or other increment resulting from the investment of moneys deposited in the fund shall be credited to the fund.

4493. Money in the fund may only be expended for projects specified in this title as allocated in appropriations made by the Legislature.

4494. (a) It is the intent of the people in enacting this bond act that jail authorization and construction proceed as quickly as possible. Due to the severe shortage of jail facilities and the need to begin construction of jail facilities as soon as possible, all decisions of the board regarding construction, reconstruction, remodeling, or replacement of jail facilities financed by this title shall be final.

(b) No court shall have jurisdiction over these decisions of the board absent a showing, beyond a reasonable doubt, of a gross abuse of discretion by the board.

(c) Should an action be commenced alleging gross abuse of discretion by the board, no court shall have jurisdiction to delay, prohibit, or interfere with the construction, reconstruction, remodeling, or replacement of the subject jail facilities. The sole remedy available to the court is a mandate that steps be taken to mitigate the abuse of discretion.

(d) Nothing in this title is intended in any way to delay, prohibit, or interfere with the construction of jail facilities.

4495. If any provision of this title, or the application thereof, is held to be invalid, that invalidity shall not affect the other provisions or applications of the title which can be given effect without the invalid provision or application, and to this end the provisions of this title are severable.